



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-280641

August 6, 1998

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Federal Communications Commission: Maritime Communications

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC), entitled "Maritime Communications" (PR Docket No. 92-257; FCC 98-151). We received the rule on July 23, 1998. It was published in the Federal Register as a final rule on July 27, 1998. 63 Fed. Reg. 40059.

The final rule is designed to simplify the licensing process and add additional flexibility for public coast stations. The rule designates 42 geographic licensing regions for VHF public coast stations and assigns all currently unassigned public correspondence channels on a geographic basis by competitive bidding. It permits the continued operation of incumbent VHF public coast station licensees and private land mobile radio licensees sharing marine spectrum and requires incumbents and geographic licensees to afford each other interference protection. Also, the rule exempts VHF public coast stations from the Channel 16 safety watch requirement where a government station maintains a continuous watch over 95 percent of the station's service area.

Enclosed is our assessment of the FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FCC complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Federal Communications Commission is Judy England-Joseph, Director for Housing and Community Issues. Ms. England-Joseph can be reached at (202) 512-7631.

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Kathleen Fagan
AMD-Performance Evaluation and
Records Management
Federal Communications Commission

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
"MARITIME COMMUNICATIONS"
(PR Docket No. 92-257; FCC 98-151)

(i) Cost-benefit analysis

The FCC, in its report to our Office, states that it was not required to prepare and did not prepare a cost-benefit analysis of the final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The FCC prepared an Initial Regulatory Flexibility Analysis in connection with the proposed rulemaking. In the preamble to the final rule, the Final Regulatory Flexibility Analysis, which complies with the requirements of the Act, is published.

The Final Analysis describes the need for and the objectives of the final rule, a description and estimate of the number of small entities to which the rule will apply, the steps taken to minimize the burden on small entities, and the alternatives considered.

To avoid the need for small entities to provide detailed information about their operations, a presumption has been established that geographic area licensees are telecommunications carriers. Also, the FCC exempted by rule public coast stations from the Channel 16 safety watch requirements so that the coast stations would not have to individually request an exemption.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the Commission is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. § 553. On July 14, 1997, the FCC issued a notice of proposed rulemaking

(62 Fed. Reg. 37533) and requested comments regarding updating the Maritime Service rules. Seventeen comments and eight reply comments were received and are responded to in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule does not contain any modified or new information collections which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule was issued under the authority of Sections 4(i), 4(j), 7(a), 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 157(a), 303(b), 303(f), 303(g), 303(r), 307(e), 332(a), and 332(c).

Executive Order No. 12866

The rule, promulgated by an independent regulatory agency, is not subject to the review requirements of Executive Order No. 12866.